

## **REMARKS**

Reconsideration of this application is respectfully requested in view of the following remarks.

By the foregoing amendment, claims 1-3, 6-7, 11-12, 14-16, and 19-22 have been amended. No new matter has been added. Thus, claims 1-25 are currently pending in the application and subject to examination.

### **I. Double Patenting--10/673,156**

In the Office Action dated August 17, 2007, the Examiner provisionally rejected claim 19 on the ground of nonstatutory obviousness type double patenting as being unpatentable over claim 21 of co-pending Application No. 10/673,156. The Applicants note that the Advisory Action of December 19, 2007 states that Applicants' reply of November 19, 2007, has overcome this rejection.

### **II. Rejections Under 35 U.S.C. § 102(b)/103(a)**

Claims 1-6, 9-14, 17-20, and 22-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 2002/0029260, now U.S. Patent No. 7,016,956 to Dobbins ("Dobbins"). Under 35 U.S.C. § 103(a), claims 7-8 are rejected as being unpatentable over Dobbins in view of U.S. Patent No. 6,757,283 to Yamanaka ("Yamanaka"); claims 15 and 16 as being unpatentable over Dobbins in view of U.S. Publication No. 2002/0099842 to Jennings ("Jennings"); and claim 21 as being unpatentable over Dobbins in view of U.S. Publication No. 2002/0059120 to Milton ("Milton"). The Applicants respectfully traverse these rejections as follows.

The Applicants submit that Dobbins does not disclose or suggest a method of according preferred transport to a content file, the method comprising at least the

combination of providing a content aware node, the node being contained in a transmission path of the content file; identifying at the content aware node any portion of the content file to be transmitted; and determining at the content aware node transport parameters based on the identified content file for transmission.

Yamanaka, Jennings, and Milton fail to cure the deficiency described in Dobbins above.

For at least this combination of reasons, the Applicants submit that amended claim 1 is allowable over the cited art. For similar reasons, the Applicants submit that amended claims 19 and 25 are likewise allowable.

As claims 1 and 19 are allowable, the Applicants submit that claims 2-18 and 20-24, which depend from allowable claims 1 and 19, are therefore also allowable.

### **III. Double Patenting--U.S. 7,016,956**

The Examiner rejected claims 1 and 19 on the ground of nonstatutory obviousness type double patenting as being unpatentable over claim 3 of U.S. Patent No. 7,016,956 to Dobbins et al. ("Dobbins").

As discussed above, the Applicants submit that Dobbins does not disclose or suggest the presently claim invention. Thus, for at least the reasons noted above, the Applicants submit that claims 1-25 are allowable over Dobbins.

### **CONCLUSION**

For all of the above reasons, it is respectfully submitted that the claims now pending patentability distinguish the present invention from the cited references. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into condition for allowance, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300 with reference to Attorney Docket No. 026215-00004.

Respectfully submitted,

Arent Fox LLP

A handwritten signature in black ink, appearing to read "Sheree Rowe", written in a cursive style.

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